

REMARKS

Claims 34-41 remain rejected as anticipated by Wetterlin or by Hallworth. These rejections are respectfully traversed.

Applicants' claim 34 requires, *inter alia*, that the inhaler include *a powder dislodging member* which is of fixed position relative to one of the at least one or at least one other of the surfaces of the flow path and is configured, on relative movement of the at least one and one other of the surfaces of the flow path, *to contact the other of the at least one or at least one other of the surfaces of the flow path so as to dislodge powder accumulated thereon*. Claim 35 requires a scraper which is movable relative to at least one of the surfaces of the flow path and is configured, on movement thereof relative to the at least one of the surfaces of the flow path, to contact the at least one of the surfaces of the flow path such as to *dislodge powder accumulated thereon*. It is clear from Applicants' disclosure that this refers to powder accumulated on the surface from a previous inhaled dose (see, e.g., page 4, lines 21-25 of Applicants' specification) so as to minimize dosage variations between doses.

Neither reference teaches or suggests such a powder dislodging member, i.e., a member capable of contacting a surface of the flow path to dislodge powder that has accumulated on the surface. Instead, the rotary 3 in Wetterlin is positioned only to break up particle agglomerates that are passing through the inhaler during inhalation by a user. The fact that Wetterlin's rotary 3 can disrupt agglomerates passing through the inhaler does not in any way suggest that it can dislodge powder that has accumulated on a surface of the inhaler. The rotary 3 cannot do this because it *cannot reach any powder that has accumulated on surfaces of the air flow path*. The Examiner appears, from the drawing on page 4 of the office action, to be asserting that the rotary 3 itself can be construed as a surface of the flow path. However, even if this interpretation is reasonable, which is not conceded, Applicants' claim language is nevertheless not met, as the rotary 3 does not "contact itself" by relative movement to dislodge powder therefrom, nor does it contact any other surface within the inhaler in this manner. Instead, as shown in the drawing on page 4 of the office action, the rotary 3 extends freely into the interior of the inhaler, and does not contact any surface of the inhaler at any time.

The Examiner asserts that each blade of the rotary 3 “reads on the definition of a scraper (a tool that scrapes).” Applicants disagree. How can the blades of the rotary 3 be “scrapers” when the rotary 3 is positioned where it cannot scrape anything?

Similarly, the rotor 5 disclosed by Hallworth is not a powder dislodging member. The Examiner asserts that, because the rotor 5 is positioned to brush the end of capsule 13, “the rotor is capable of dislodging powder accumulated in the inhaler.” Rotor 5 causes the capsule to vibrate and empty its contents (col. 2, lines 21-26.) It does not “contact a surface of the flow path so as to dislodge powder accumulated thereon” as required by Applicants’ claims. Even if the outer surface of the capsule can reasonably be construed to be part of “a flow path downstream of the dosing unit,” which is not conceded, the rotor brushing the capsule surface does not dislodge powder accumulated from previous doses from the capsule surface. Instead, it merely serves to disperse the medicament that is being released from the capsule during the present inhalation.

In view of the above remarks, Applicants respectfully request that the rejections under 35 U.S.C. 102(b) be withdrawn.

Claims 55, 57-59, 61 and 62 have been rejected as obvious in view of either of these references combined with Ambrosio, claims 56 and 60 have been rejected as obvious in view of Wetterlin/Hallworth in view of Ambrosio and Andersson, and claims 63 and 64 have been rejected as obvious in view of Wetterlin/Hallworth in view of Ambrosio and Wetterlin ‘893. Applicants respectfully submit that the claims are patentable over these combinations for at least the reasons discussed above, because none of the secondary references teach or suggest the features lacking in the primary references.

Claims 34-41 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 18, 23, 30 and 39 of U.S. Patent No. 6,257,232, and claims 55 and 59-61 remain rejected under the same doctrine as being unpatentable over claims 1-4 of U.S. Patent No. 6,446,626 in view of Ambrosio. These rejections are respectfully traversed. None of the cited claims teach or suggest a powder dislodging member.

The claims of 6,257,232 pertain to a movable member that *inhibits accumulation* of powder on a surface by interrupting the stream of air flowing through the inhaler; there is no

teaching or suggestion of a dislodging member that contacts a surface of the airflow path to *dislodge already accumulated powder*. As discussed above, this is an important, structural distinction that cannot simply be ignored by the Examiner. Contrary to the Examiner's unsupported assertion, the device described and claimed in 6,257,232 is not capable of performing the "intended use" of dislodging already accumulated powder. There is nothing whatsoever in the claims or elsewhere in the reference to indicate that the movable member contacts a surface of the flow path, or dislodges powder therefrom.

Applicants reiterate that the rejection of claims 55 and 59-61 based on 6,446,626 is not understood, as there does not seem to be anything that could possibly be construed as a powder dislodging member, among other features of Applicants' claims, in any of the claims of 6,446,626. This rejection was not explained by the Examiner in the Office Action mailed May 15, 2006, despite Applicants' previous request for clarification. Applicants respectfully request that this rejection be withdrawn. If the Examiner maintains this rejection, Applicants request that the Examiner explain where the features recited in Applicants' claims are found in 6,446,626.

In view of the above, Applicants respectfully request that the rejections be withdrawn.

It is believed that no fees are due with this submission. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 06275-131002.

Respectfully submitted,

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